IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.345 OF 2007

IN

ARBITRATION PETITION NO.31 OF 2007

M/s.Nikita Art Movie P.Ltd. ...Appellant.

vs.

Sanjay Entertainment P.Ltd. ...Respondent.

Mr.A.M.Saraogi,for Appellant.

None for respondent.

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 14th August,2007.

P.C.:-

1. This is an appeal taken out by the original petitioner who had taken out the petition under Section 9 of the Arbitration and Conciliation Act for temporary injunction restraining the respondent from releasing a movie. The learned Single Judge, as can be seen from the order, has declined to grant temporary injunction on finding that the claim of the petitioner is essentially a money claim, and therefore, the order of temporary injunction cannot be granted. The learned Single Judge has also observed that a statement is made in the affidavit filed filed by the respondents in reply that the movie has already been released. The learned Counsel appearing for appellant submits that he understands that his claim is a money claim and therefore, his remedy is to make an

application for order of attachment before judgment, and hence, he seeks liberty to make such an application. He also submits that the statement made in the affidavit of the respondent that the movie has already been released, is a false statement, and he seeks liberty to take appropriate proceedings against the respondents for making the false statement on affidavit. We see no reasons to interfere with the order impugned. However, as the claim of the appellant is essentially a money claim as found by the the learned Single Judge, this order will not come in the way of the appellant making an application for attachment before judgment. If the statement made in the affidavit by the respondent that the movie has already been released is false, no leave or liberty of the Court is necessary for the appellant to proceed against the respondents on that count. The appeal is disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA,J.)